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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,173	04/16/2004	Kanji Kirmoto	SIC-04-021	9874
29863	7590	03/16/2011	EXAMINER	
DELAND LAW OFFICE P.O. BOX 69 KLAMATH RIVER, CA 96050-0069			WILLIAMS, THOMAS J	
			ART UNIT	PAPER NUMBER
			3657	
			NOTIFICATION DATE	DELIVERY MODE
			03/16/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bdeland1992@gmail.com  
jdeland@sisqtel.net

# Office Action Summary

**Application No.**

10/826,173

**Applicant(s)**

KIRMOTO ET AL.

**Examiner**

Thomas J. Williams

**Art Unit**

3657

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37, 40, 42, 44-61, 63-65, 67-71, 73 and 75-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37, 40, 42, 44-61, 63-65, 67-71, 73 and 75-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Acknowledgment is made in the receipt of the supplemental declaration filed January 12, 2011.

**Reissue Applications**

2. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

It is suggested that the applicant file a new declaration to replace the original declaration filed April 16, 2004. In addition, it is suggested that the applicant use form PTO/SB/51 found on the USPTO website. The applicant should check the second and third box under reasons for error, and state the error as being the omission of a co-inventor and his contribution with respect to the overlooked feature.

3. Claims 1-37, 40, 42, 44-61, 63-65, 67-71, 73, and 75-79 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

4. Claim 79 is rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

Claim 79 omits limitations pertaining to the interior of the actuating mechanism added during prosecution of 09/531,570 (US 6,557,671) in the amendment dated November 8, 2002 to overcome the outstanding rejection in view of Kawaguchi (US 3,789,959) mailed July 11, 2002. The omitted limitations are as follows:

“an input cam movably mounted within the caliper housing to move in a rotational direction about a longitudinal axis, but not in an axial direction, said input cam having a first camming surface with an axially extending guide member non-movably fixed thereto at said longitudinal axis, and an output cam movably mounted within said caliper housing to move in the axial direction in response to rotation of said input cam, but not in the rotational direction, said output cam having a second camming surface with an axially extending bore, said guide member being at least partially disposed within said bore to ensure smooth relative movement between said input and output cams”

The above limitations have been replaced with new limitations directed to an exterior portion of the actuating arm, with regards to claim 79:

“wherein the actuated mechanism comprises an elongated actuating arm coupled to the caliper housing for rotation around a rotational axis to cause the actuated mechanism to move the first friction member from the release position towards the braking position;

wherein the actuating arm has a curved guide surface with a first portion coincident with a cable clamp and a second portion that extends from the first

portion towards the cable support so that the cable, when coupled to the cable clamp, approaches the guide surface from the opening in the cable support essentially tangent to the guide surface and is supported by the guide surface when the first friction member is in the release position;

wherein a circumferential width of the actuating arm measured circumferentially from one circumferential side surface of the actuating arm to an opposite circumferential side surface of the actuating arm is less than a radial length of the actuating arm measured in a straight line from the rotational axis to the location where the cable leaves the guide surface.”

The omitted limitations relate to previously surrendered subject matter and are directed to the input cam and the output cam and the specifics thereof, whereas the replacement limitations are directed to the actuating arm. The replacement limitations are not related to the omitted limitations, therefore a recapture rejection exists.

#### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,206,144 to Di Bella in view of JP 3-114546 to Suzuki.

Re-claim 79, Di Bella teaches a cable disc brake, comprising: a caliper housing 16 with a mounting bracket 18, cable support 23 has an opening for a cable 22; a first friction member 37; a second friction member 40; a rotor 1 is positioned between the friction members; an actuated mechanism 20 is movably coupled to the caliper housing, the actuated mechanism comprises an elongated actuating arm for rotation about an axis 19. However, Di Bella fail to teach the actuating arm having a curved guide surface with a first portion coincident with a cable clamp and a second portion extending toward the cable support, such that the cable approaches the guide surface from the cable support in a tangential manner, or wherein a circumferential width of the actuating arm is less than a radial length.

Suzuki teaches a cable actuating assembly having an actuating arm 10 with a curved guide surface, a first portion of the surface is coincident with a cable clamp 11, a second portion of the guide surface extends from the first surface toward a cable support 23, such that the cable approaches the cable opening in an essentially tangent manner when the arm is in the release position (as in figure 3), furthermore, a circumferential width of the arm (as measured at various points along the arm) is less than a radial length of the arm (as measured from the axis of rotation to the point where the cable leaves the guide surface, i.e. near the second portion). This structure

provides improved power transmission, due in part to the large guide surface associated with actuating arm. It would have been obvious to one of ordinary skill in the art at the time of the invention to have replaced the actuating arm of Di Bella with an actuating arm of the type taught by Suzuki, thus increased control over a larger range.

#### **Allowable Subject Matter**

8. The following is a statement of reasons for the indication of allowable subject matter: Claims 1-37, 40, 42, 44-61, 63-65, 67-71, 73, and 75-78 would be allowed upon correction of the declaration. It is the opinion of the examiner that claim 37 avoids recapture due to an overlooked feature, or aspect not claimed in the previous patent. The prior art of record fails to anticipate or render obvious this feature, the feature being wherein the second portion of the guide surface is formed by a circumferentially elongated projection that points in a rotational direction of the actuating arm towards the cable support where the cable passes through the cable support such that the cable is supported on and by the projection; wherein the projection includes: a radially outer portion having a first surface that forms the second portion of the guide surface, wherein the first surface extends towards the cable support; and a radially inner portion having a second surface that extends away from the cable support back towards a side surface of the actuating arm; wherein a straight phantom line perpendicular to the first surface where the cable is supported on the first surface intersects the second surface.

#### **Conclusion**

9. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Wednesday-Friday from 6:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi, can be reached at 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

/Thomas J. Williams/  
Primary Examiner, Art Unit 3657

March 10, 2011